

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

House Bill 342
Judiciary

(Delegates Haddaway-Riccio and Eckardt)

**Criminal Procedure - Seeking Medical Assistance for Another Who Ingested
Alcohol or Drugs - Minors**

This bill specifies that a minor who, in good faith, seeks medical assistance for another person who is experiencing a medical emergency after ingesting alcohol or drugs may not be (1) charged with or prosecuted for possession of a controlled dangerous substance or underage possession of alcohol if the evidence for the prosecution was obtained solely as a result of the minor seeking medical assistance; (2) detained on an outstanding warrant for another nonviolent crime if the seeking of medical assistance by the minor is the reason for the encounter with law enforcement; or (3) required to provide any personal identifying information for any purpose other than assisting in the medical treatment of the person experiencing a medical emergency.

The bill's provisions do not apply to a person who provided, sold, gave, or exchanged for other goods or services the alcohol or drugs that caused the medical emergency to the person for whom medical assistance is sought.

Fiscal Summary

State Effect: None. Although the bill's immunity provisions may potentially result in fewer criminal cases, it is not expected to significantly impact the Judiciary, the Department of Juvenile Services, or the Department of Public Safety and Correctional Services.

Local Effect: None. Although the bill's immunity provisions may potentially result in fewer criminal cases, it is not expected to significantly impact the circuit courts, State's Attorney's offices, or local detention centers.

Small Business Effect: None.

Analysis

Current Law: Chapter 714 of 2009 established that the act of seeking medical assistance for a person who is experiencing a medical emergency after ingesting alcohol or drugs may be used as a mitigating factor in a criminal prosecution.

Generally, a juvenile who is prosecuted as an adult is subject to the criminal penalties discussed below. Otherwise, a juvenile who is adjudicated delinquent is subject to alternative processes and dispositions.

The use or possession of a controlled dangerous substance other than marijuana is a misdemeanor with maximum criminal penalties of four years imprisonment and/or a \$25,000 fine.

In general, a defendant in possession of marijuana is guilty of a misdemeanor and subject to imprisonment for up to one year and/or a fine of up to \$1,000. However, pursuant to Chapters 193 and 194 of 2012, a person in possession of less than 10 grams of marijuana is subject to a reduced penalty of imprisonment for up to 90 days and/or a maximum fine of \$500.

The use or possession of less than 10 grams of marijuana may not be considered a lesser included crime of any other crime unless specifically charged by the State. If a person is convicted of possessing less than 10 grams of marijuana, the court must stay any imposed sentence that includes an unserved, nonsuspended period of imprisonment without requiring an appeal bond (1) until the time for filing an appeal has expired and (2) during the pendency of a filed appeal of the conviction.

If the court finds that the defendant used or possessed marijuana out of medical necessity, the maximum punishment is a \$100 fine. An affirmative defense is available to defendants for use or possession of marijuana or related paraphernalia due to a debilitating medical condition or if the defendant was a caregiver and the marijuana was intended for medical use by an individual with a debilitating medical condition.

In general, an individual younger than age 21 may not consume an alcoholic beverage, possess an alcoholic beverage, or have an alcoholic beverage under the individual's charge or control. Such an individual may not be detained on suspicion of, or charged with a violation of, the prohibition against consumption of an alcoholic beverage unless the individual is observed possessing an alcoholic beverage. The prohibition does not apply if an adult furnishes the alcoholic beverage or allows possession or consumption, the individual and the adult are members of the same immediate family, and the beverage is furnished and consumed within the private residence or residence curtilage of the adult. The prohibition also does not apply if the individual consumes the alcoholic beverage while participating in a religious ceremony. A violation is a code violation and civil

offense subject to citation and punishable by a maximum fine of \$500 for a first offense, and \$1,000 for subsequent violations.

Background: According to the Network for Public Health Law, as of January 1, 2014, 14 states and the District of Columbia have “Good Samaritan” laws to encourage individuals to summon aid in the event of an overdose. **Exhibit 1** features common characteristics of these statutes.

Exhibit 1
Common Characteristics of Good Samaritan Statutes

Samaritan Must Act in Good Faith	California, Colorado, Connecticut, Delaware, Illinois, Massachusetts, New Jersey, New Mexico, New York, North Carolina, Rhode Island, Vermont, Washington, and the District of Columbia
No Charge – Possession of Controlled Substance	California, Connecticut, Delaware, Illinois, Massachusetts, New Jersey, New Mexico, New York, Rhode Island, Vermont, Washington, and the District of Columbia
No Prosecution – Possession of Controlled Substance	California, Colorado, Connecticut, Delaware, Illinois, Massachusetts, New Jersey, New Mexico, New York, North Carolina, Rhode Island, Vermont, Washington, and the District of Columbia
No Charge – Controlled Substance Paraphernalia	California, Connecticut, Delaware, New Jersey, New York, Rhode Island, and the District of Columbia
No Prosecution – Controlled Substance Paraphernalia	California, Colorado, Connecticut, Delaware, New Jersey, New York, North Carolina, Rhode Island, and the District of Columbia
Protection from Other Crimes	California, Colorado, Delaware, New Jersey, New York, North Carolina, Rhode Island, Vermont, and the District of Columbia
Reporting Specified as a Mitigating Factor	Illinois, New Mexico, New York, Rhode Island, Vermont, Washington, and the District of Columbia

Source: Network for Public Health Law

Additional Information

Prior Introductions: None.

Cross File: SB 476 (Senator Colburn) - Judicial Proceedings.

Information Source(s): Department of Health and Mental Hygiene, Judiciary (Administrative Office of the Courts), Department of Juvenile Services, Office of the Public Defender, State's Attorneys' Association, U.S. Office of National Drug Control Policy, Network for Public Health Law, Department of Legislative Services

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